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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,114	08/16/2003	Ming-Yuan Wang		3512

7590 07/11/2005
Hsu & Associates
P.O. Box 72
Nankang
Taipei, 115
TAIWAN

EXAMINER

BRUENJES, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,114

Applicant(s)

WANG, MING-YUAN

Examiner

Christopher P Bruenjes

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 3 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 3, the limitation that the tube head "has a receiving space straightforward communicating a containing space in the tube body" renders the claim vague and indefinite. It is not understood what straightforward communicating is. Clarification is needed.

Regarding claim 6, the limitation "turned lid" renders the claim vague and indefinite because it is not understood what is considered a "turned lid". Furthermore, if the limitation refers to the fact that the lid can turn clockwise or counterclockwise in relation to the tube body, it would then be in conflict with claim 4, in which it depends which requires a hinge connection to the tube head, which is integral with the tube body.

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Therefore, the limitation is determined to define merely a lid that can be turned from one position to another, such as any hinged lid.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahara et al (WO 00/73165). US Patent number 6,550,646 is supplied as an English translation of the PCT application.

Takahara et al anticipate a plastic tube container comprising a tube body (reference number 3, Figure 10) and a tube head (reference number 4, Figure 10), being integrally attached to a top of the tube body (col.6, 1.3-10). The plastic tube also has a lid (reference number 2, Figure 10) provided at an opening of the tube head. Regarding claim 2, the tube body is made of soft plastics and the tube head is made of hard plastics or soft plastics (col.6, 1.40-47). Regarding claim 3,

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the tube head has a receiving space straightforward communicating a containing space in the tube body (Figure 10). Regarding claim 4, the lid has a covering recess (reference number 11, Figure 10) for fitting with an opening of the tube head and being joined to the tube body with a hinge (reference number 26, Figure 10) with a lift tab (the opposite edge of Reference number 10 of Figure 10 from the hinge). Regarding claim 5, the lift tab is arranged at a front side of the tube body (Figure 10). Regarding claim 6, "turned lid" defined in the broadest reasonable interpretation is a lid that can be turned. In this case, the lid of Takahara et al can be turned back on a hinge from a closed position to an open position.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ramsey (USPN 6,698,618); Jud et al (US 2001/0050291 A1); Durliat et al (USPN 5,899,361); Miranda (USPN 5,213,235); Sebolt (USPN 1,794,987).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P Bruenjes whose telephone number is 571-272-1489. The examiner can normally be reached on Monday thru Friday from 8:00am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher P Bruenjes


Examiner

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July 8, 2005


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

7/8/05